
HOUSE BILL No. 1644

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-28-15.

Synopsis: State financing of health facility closures. Creates the health facility transition incentive fund and appropriates \$10,000,000 to the fund from the interest that accrues from investment of the Indiana tobacco master settlement agreement fund. Establishes the health facility transition review committee to review and accept or reject according to specified factors applications from qualified health facilities for the purpose of purchasing and closing health facilities to reduce the number of unoccupied licensed beds at health facilities throughout Indiana. Authorizes the department of administration to negotiate the terms and conditions of a contract to purchase an approved health facility's real property and requires the department to offer for sale or lease the acquired real property. Creates a moratorium on the addition, construction, and conversion of comprehensive care beds until July 1, 2007. Provides exceptions for comprehensive care beds that received a certificate of need under prior law or comprehensive care beds for which construction plans were approved and construction was begun before July 1, 2003.

Effective: Upon passage; July 1, 2003.

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January 16, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1644

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-62.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: **Sec. 62.5. "Committee", for purposes**
4 **of IC 16-28-15, has the meaning set forth in IC 16-28-15-1.**

5 SECTION 2. IC 16-18-2-308 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 308. **(a)** "Real
7 property" or "land" means improved or unimproved real estate or land
8 and all of the fixtures, buildings, and improvements upon the real
9 property or land.

10 **(b) "Real property", for purposes of IC 16-28-15, has the**
11 **meaning set forth in IC 16-28-15-2.**

12 SECTION 3. IC 16-28-15 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2003]:

15 **Chapter 15. Health Facility Transition Incentive Program**

16 **Sec. 1. As used in this chapter, "committee" refers to the health**
17 **facility transition review committee established by section 4 of this**



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chapter.

Sec. 2. As used in this chapter, "real property" means land and all buildings and fixtures on and appurtenant to land.

Sec. 3. (a) The health facility transition incentive fund is established. The state department shall administer the fund.

(b) The following shall be paid from money in the fund:

(1) The expenses of administering the fund.

(2) Income from a sale or lease under section 11 of this chapter.

(3) Costs incurred by the department of administration in carrying out the department's duties under this chapter.

(c) The fund consists of the following:

(1) Money appropriated to the fund.

(2) Any other appropriations made to the fund by the general assembly.

(3) Money paid by the purchasers or lessors of health facility property under this chapter.

(4) Grants and gifts intended for deposit in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but is annually appropriated and remains available for expenditure for the purposes set forth in this chapter.

Sec. 4. (a) The health facility transition review committee is established. The committee consists of the following members:

(1) The commissioner of the state department of health or the commissioner's designee.

(2) The assistant secretary of the office of Medicaid policy and planning established by IC 12-8-6-1 or the assistant secretary's designee.

(3) One (1) health care provider (as defined in IC 16-18-2-163) appointed by the governor.

(4) One (1) representative of a health facility association appointed by the governor.

(5) One (1) individual appointed by the governor who:

(A) is a consumer of health facility services; or

(B) advocates on behalf of consumers of health facility services.

(6) Two (2) members of the house of representatives who are

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not affiliated with the same political party appointed by the speaker of the house of representatives.

(7) Two (2) members of the senate who are not affiliated with the same political party appointed by the president pro tempore of the senate.

The members appointed under subdivisions (6) and (7) are nonvoting advisory members.

(b) Three (3) voting members of the committee constitute a quorum. The affirmative votes of at least three (3) voting members of the committee are required to take action.

(c) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) Each member of the committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) Each member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(f) Each member of the committee appointed under subsection (a)(3) through (a)(5) serves a term of two (2) years.

(g) The state department shall provide staff support to the committee.

Sec. 5. The state department may, in the manner provided by this chapter, direct the Indiana department of administration to:

(1) enter into contracts for the purchase of real property of health facilities to close health facilities and reduce the number of unoccupied licensed beds at health facilities throughout Indiana; and



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(2) sell, lease, or otherwise dispose of the property acquired under subdivision (1) for reuse by a public or private entity for a purpose other than operation as a health facility.

Sec. 6. The state department, subject to the approval of the committee, shall adopt rules under IC 4-22-2 establishing a priority ranking system for the purchase of the real property of health facilities to close health facilities and reduce the number of unoccupied licensed beds at health facilities throughout Indiana. The priority ranking system must include the following factors:

(1) The availability of adequate placements for the residents of the health facility that fully meet the needs of the residents before the closure of the health facility.

(2) The effect that the closure of the health facility would have on the health facility's residents, residents' families, and employees.

(3) The potential effect of the closure of the health facility on the quality and capacity of health care in the vicinity of the health facility.

(4) The economic impact of the closure of the health facility and the prospect for conveyance of the health facility property for reuse by a private or public entity.

(5) The number of unoccupied licensed beds in the health facility.

(6) The effect of the proposed health facility closure on the health facility occupancy rate percentage in Indiana.

(7) Whether the owner of the health facility has a record of operation of the health facility or other health facilities in substantial breach of any law or administrative rule governing health facilities.

(8) Any other factors the state department determines will assist in the implementation of this chapter.

Sec. 7. (a) Before January 1, 2004, and each year thereafter, the owner of a health facility in which at least twenty-five percent (25%) of the licensed beds are unoccupied may submit to the committee a written application for the closure of the health facility and the purchase of the health facility's real property by the state department. The application must be in the form prescribed by the state department and must include the following information:

(1) The name and location of the health facility at which operations will be terminated if the health facility is purchased.

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(2) The number of beds at the health facility that are licensed under IC 16-28 and the number of those beds that are occupied at the time the application is filed.

(3) The number of Medicaid recipients at the health facility.

(4) An estimate of the costs the health facility will incur with respect to the termination of operations at the health facility.

(5) An evaluation of the prospect for conveyance of the health facility property for reuse by a private or public entity in a manner that will enhance the economy of the area.

(6) Documentation of community and neighborhood comments concerning proposals for reuse of the health facility property after closure of the health facility.

(7) A plan and timetable for placement of residents of the health facility in adequate placements that fully meet the needs of the residents before terminating operations at the health facility.

(8) The documentation of a title search on the real property of the health facility.

(9) Other information required by the state department.

(b) Information provided under subsection (a) is confidential.

Sec. 8. Before July 1, 2004, and each year thereafter, the committee shall approve or reject each application filed under section 7 of this chapter. The committee's approval or rejection must be based on:

(1) the priority ranking system established under section 6 of this chapter; and

(2) the availability of money in the health facility transition incentive fund to implement each application that is approved.

Sec. 9. (a) The state department shall immediately notify the Indiana department of administration and the office of Medicaid policy and planning of the committee's approval of an application under section 8 of this chapter.

(b) The Indiana department of administration shall, on behalf of the committee and the state department, negotiate the terms and conditions of the contract for the purchase of the real property of each health facility for which an application has been approved under this chapter. The value of the health facility's real property shall be appraised by the Indiana department of administration or by an independent appraiser, at the discretion of the Indiana department of administration. The purchase price under the contract may not exceed the appraised value of the real property.

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(c) The Indiana department of administration shall notify the state department and the committee if the Indiana department of administration and the owner of a health facility cannot reach agreement with respect to the purchase of the health facility's real property under subsection (b). If the committee determines that the failure to reach agreement will permit the approval of one (1) or more additional applications under section 8 of this chapter, the committee may approve additional applications to the extent that the necessary funds are available in the health facility transition incentive fund.

Sec. 10. The Indiana department of administration is responsible for the maintenance, custody, and protection of real property acquired under section 9 of this chapter, as provided in IC 4-20.5-6.

Sec. 11. The Indiana department of administration shall offer for sale or lease all real property that is acquired under section 9 of this chapter. Sales and leases of real property under this section are subject to the applicable provisions of IC 4-13, IC 4-20.5, and IC 5-22. Money received from the sale or lease of real property under this section shall be deposited in the health facility transition incentive fund.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "comprehensive care bed" means a bed that:

- (1) is licensed or is to be licensed under IC 16-28-2;
- (2) functions as a bed licensed under IC 16-28-2; or
- (3) is subject to IC 16-28.

The term does not include a comprehensive care bed that will be used solely to provide specialized services and that is subject to IC 16-29.

(b) This SECTION does not apply to a comprehensive care bed:

- (1) for which a certificate of need was approved under IC 16-29-1 (before its expiration on July 1, 1998);
- (2) that was in the long term care bed inventory maintained by the state department of health as of July 1, 1998; or
- (3) for which a certificate of need was not approved under IC 16-29-1 (before its expiration on July 1, 1998) and that was not in the long term care bed inventory as of July 1, 1998, if:

(A) before July 1, 2003:

- (i) the state department of health and the department of fire and building services approve construction plans for the project; and
- (ii) the project's foundation is constructed in conformity

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with the approved plans, as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and

(B) as of July 1, 2003, construction work on the project is:

(i) continuous; and

(ii) in conformity with the plans approved under clause

(A)(i).

(c) Comprehensive care beds may not be added or constructed after the effective date of this SECTION.

(d) Residential beds licensed under IC 16-28-2 and unlicensed beds may not be converted to comprehensive care beds.

(e) Notwithstanding IC 16-29-3, acute care beds of hospitals may not be converted to comprehensive care beds.

(f) After the effective date of this SECTION, the Indiana health facilities council may not recommend and the state department of health may not approve the certification of new or converted comprehensive care beds for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the federal Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

(g) This SECTION expires July 1, 2007.

SECTION 5. [EFFECTIVE JULY 1, 2003] (a) There is appropriated to the health facility transition incentive fund established by IC 16-28-15-3, as added by this act, ten million dollars (\$10,000,000) from the interest that accrues from investment of the Indiana tobacco master settlement agreement fund for carrying out the purposes of this act.

(b) This SECTION expires December 31, 2005.

SECTION 6. An emergency is declared for this act.

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